

Background Report

MARINE PATROL, BOATER EDUCATION, AND SAFETY PROGRAMS

Delta Protection Commission

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INTRODUCTION

The Sacramento-San Joaquin Delta is the largest inland waterway on the West Coast comprised of 1,100 miles of “coastline” and a 700-mile long network of sloughs and channels surrounding 57 islands. The Delta is not only one of California’s great resources but a center for commerce, fishing, and recreational boating as well. The Delta lends itself to recreational use because of its aesthetic beauty, wildlife, unique waterway system, and temperate climate.

The peaceful use and enjoyment of the Delta is based on all users abiding by existing laws. An estimated 123,000 vessels are registered to individuals living in the five Delta counties; unfortunately some of these individuals as well as boaters living outside the five Delta counties, fail to obey these laws when operating vessels on the water, thereby interfering with the recreational and vocational uses of the Delta.

Not only are boating safety laws violated in the Delta, but so are pollution and environmental laws. For example illegal dumping, oil spills, and poaching are identified problems. Due to the areas of concern in need of enforcing, many agencies are involved in patrolling the Delta waters. Those agencies patrolling in the Delta waterways are: the five Delta County sheriff departments, the City of Sacramento Police Department, the City of West Sacramento Police Department, the Sacramento Port Police, the Stockton Port Police, the U.S. Coast Guard, the Department of Fish and Game, the Department of Parks and Recreation, the Coast Guard Auxiliary and the San Joaquin County STARS.

The 1992 Delta Protection Act, Public Resources Code Section 29760(d), requires that the Commission prepare, in coordination with the aforementioned agencies, a strategy for the implementation of a coordinated marine patrol system throughout the Delta. The purpose of the directive is to improve law enforcement and coordinate the use of resources by all jurisdictions to ensure an adequate level of public safety.

This report assesses the existing patrol service in the five Delta counties. The areas specifically addressed include: accidents and fatalities, alcohol related accidents and boating under the influence arrests, personal watercraft, other types of accidents, other citations (insufficient equipment, speeding, etc.), pollution violations, poaching, volunteer programs, other programs operating in the Delta, and legislation improving boating safety laws and increasing funds for marine patrol in the Delta. This report also distinguishes areas of improvement and recommends where improvements can be made to enhance the level of law enforcement in the Delta.

The Delta Protection Commission held two Public Hearings on the draft background report on Marine Patrol, Boater Education, and Safety Programs. The first Public Hearing was held on December 15, 1994 and the second Public Hearing was held on January 26, 1995.

The Land Use and Resource Management Plan for the Primary Zone of the Delta was adopted by the Commission on February 23, 1995. This report is one of nine Background Reports prepared as part of the planning process.

1. EXISTING SERVICES

Existing marine patrol services are provided primarily by the Delta County Sheriff Departments, the cities of West Sacramento and Sacramento, and to a more limited extent, the Coast Guard, the Department of Fish and Game (DFG), and the Department of Parks and Recreation (DPR). While the DFG and DPR wardens are peace officers, their assignments are directly related to their Departments' mandates. The single Coast Guard vessel stationed in Rio Vista provides limited "policing", but are extremely active in providing boater assistance.

The marine patrol services provided by the five Delta Counties have been severely reduced as part of recent County budget cutbacks. For example, San Joaquin County eliminated marine patrols in 1993 and were only able to respond to emergency calls; Contra Costa County only has two full-time sheriffs assigned to marine patrol, down from nine full-time and four part-time officers in 1989. The five Counties are responsible for supervising the local vessels berthed in the approximately 10,000 existing Delta slips, and the visiting vessels that travel approximately 1,000 miles of waterways.

The lack of marine patrols is not related to levels of boating activity. In fact, in 1994, the number of registered recreational vessels statewide increased 9.7%, approximately 19,500 new vessels statewide. In addition, the number of personal watercraft increased dramatically and have been labeled a "big problem" to on-water safety.

A. Patrol Schedules

The following section describes Delta marine patrol schedules for the five County Sheriff Departments, the City of Sacramento Police Department, West Sacramento Police Department, the Department of Parks and Recreation, and the U.S. Coast Guard Rio Vista Station.

The recent cutbacks in county and marine patrols have been offset in part by volunteer reserve officers. Generally, two reserve officers volunteer weekly in Contra Costa, San Joaquin, Sacramento, and Solano Counties. More reserves, approximately three to six, volunteer in Yolo County and the cities of Sacramento and West Sacramento. Reserves assist with marine patrol throughout the year, however, they dedicate more hours during the boating season – May through September.

1. Contra Costa County [8 vessels; 3 officers; 3,340 berths]

The Contra Costa County Sheriff Department has five patrol boats located at: Laurizen's Yacht Harbor, Antioch; Beacon Harbor, Bethel Island; Holland Riverside Marina, Knightsen; two boats at Discovery Bay Marina, Byron; and one boat on trailer at the sheriff's department (see Exhibit B for location of county patrol vessel locations).

During the summer months, May through September, Contra Costa assigns one sheriff to boat patrol on Mondays, Tuesdays, and Thursdays from 8 a.m. till 6 p.m. Wednesday is the marine unit's day off; no boat patrols. Two boats are assigned from 8 a.m. to 6 p.m. on Fridays. Three boats are assigned to boat patrol, two from 8 a.m. to 6 p.m. and one from noon until 10:00 p.m., on Saturdays and Sundays. During the winter months Contra Costa assigns one boat on weekdays and weekends from 8 a.m. to 6 p.m.

Contra Costa assigns only two full-time sheriffs and one seasonal sheriff to their marine unit. Therefore, only one sheriff is aboard the patrol boat accompanied with one or two reserve deputies. Contra Costa's reserves are Level One, Level Two and Level Three reserves; the majority are Level Two reserves. Level One reserves are trained officers who are authorized to work alone, without the supervision of a regular officer, to perform specific police functions or to prevent and detect crime and enforce laws. Level One reserves are able to issue citations. Level Two reserves are able to enforce laws and issue citations, but only when under the immediate supervision of a regular officer. Level Three reserves are not authorized to enforce laws or issue citations and are only deployed for limited functions that do not require general law enforcement powers such as search and rescue missions. All Contra Costa County reserves are volunteers. The department uses two reserves on Fridays, three on Saturdays and three on Sundays. (Note: This patrol schedule is Contra Costa County's 1994 patrol schedule and may change in following years.)

In contrast, in 1989, Contra Costa County's marine patrol unit was staffed by one sergeant, eight deputies, and four part-time employees for the summer months.

The area most frequent patrolled by the Sheriff's Department is Discovery Bay, specifically Indian Slough, Bixler Slough, and Old River (see Exhibit C for a map of each Delta county patrol jurisdiction). About half of Contra Costa's marine berths are located in the Delta; the rest are in the north and western shorelines.

2. Sacramento County [6 vessels; 6-8 officers; 3,700 Delta berths]

The Sacramento County Sheriff Department is equipped with six patrol boats. Not all the boats are prepared to operate on the water (some are on trailers or are in need of repair) but their strategic locations are: Freeport Marina, Walnut Grove, River Bank Marina (north of Discovery Park), and Willow Berm Marina (see Exhibit B for location of boat launches and county patrol vessel locations).

The Sheriff's Department has six full-time paid Reserve Officers to operate their boat patrol program. At the start of the 1994 boating season, the Department had eight officers on boat patrol. From Labor Day until October 1, 1994, two officers will be assigned to boat patrol. After October 1, 1994, the marine patrol unit will operate on an emergency response basis only. Sacramento County reserves are Level One reserves and are able to patrol and issue citations.

During the summer months, May through September, the Sheriff's Department assigns one vessel with two officers on board on Mondays and Tuesdays, two boats with two officers on board each boat on Thursdays and Fridays, and three boats with two officers on board each boat on Saturdays and Sundays. The officers work ten hour shifts but are only on the water for approximately six hours. Most Sacramento Count marina berths are in the Delta; however, some are on the Sacramento River, north of the Delta.

Prior to Fiscal Year 1992-1993, the Sacramento Sheriff's Department marine patrol unit assigned six full-time officers year-round plus five paid reserves during the summer months of May through September. They had a total operating staff of eleven and their budget was \$750,000. Their budget for fiscal year 1994-1995 is \$160,000.

Sacramento County Sheriff's Department has a Marine Reserve Program where Level Three reserves volunteer to assist with search and rescue and other boater assistance missions. However, only four trained Marine reserves volunteered and only one Marine reserve had completed a volunteer shift by early fall of 1994.

Certain areas in Sacramento County require more patrolling than others. North Sacramento River, north of Discovery Park, requires more patrolling due to heavy boat traffic. The Meadows area, east of Walnut Grove, requires more enforcement due to speeding boats and disregard for posted 5 mph zones. (Note: See Chapter II, Section C(2) for more information on speeding violations.) Also, all marinas in the Sacramento County area are in need of more patrols due to numerous personal watercraft and water

ski boats disregarding 5 mph zones. Sacramento County Sheriff's Department reports that the operators are aware of the County's reduction in patrols on the water due to the budget cuts and therefore take advantage of the lack of patrols (see Exhibit C for a map of each Delta county patrol jurisdiction).

3. San Joaquin County [6 vessels; 5 officers; 3,350 Delta berths.]

For Fiscal Year 1993-1994, San Joaquin County Sheriff Department eliminated their entire marine patrol unit. Four "on-call" boats centrally located in wet berths at Stephens Anchorage Marina on Brookside Road in Stockton were available for emergencies only. In July 1994, the Sheriff's Department reinstated the marine patrol unit equipped with four boats and two jet skis located at Stevens Anchorage Marina (see Exhibit B).

The Sheriff's Department has now assigned a full-time staff of four officers and one sergeant to marine patrol. The Sheriff's patrol uses two boats on weekdays and three on weekends. At least two officers are assigned to each boat. The Department uses two Level One reserve deputies; one reserve will work at least one full shift per week. During winter, they patrol seven days per week with one boat and two officers on board.

Prior to Fiscal Year 1993-94, the San Joaquin County Sheriff Department assigned six officers to marine patrol with four boats on the water on weekends.

The area most frequently patrolled is the Central Delta, specifically the Stockton Deep Water Ship Channel (see Exhibit C for patrol jurisdiction). All of San Joaquin County's marina berths are located in the Delta.

4. Solano County [1-2 vessels; 4 officers; 360 Delta berths.]

Solano County Sheriff's Department uses three boats for marine patrol. One boat is berthed at Vallejo Municipal Marina, another boat is berthed at the Delta Marina in Rio Vista, and the third boat is an 18-foot aluminum with an outboard motor on a trailer in Fairfield.

Four full-time paid officers operate the marine patrol unit seven days per week. Two boats are on the water each day for approximately 6.5 hours (daylight hours). The marine patrol unit uses reserves to augment their patrol. All the reserves are Level Two and are volunteers. Two reserves volunteer on both Saturdays and Sundays. One or two reserves volunteer during the week; their schedule varying.

Solano County's marine patrol program was recently reinstated. In July of 1993, the program was eliminated due to budget cuts. The new program is operating at the same level it had been prior to being cut.

Solano County covers approximately 118 to 120 miles of waterways in the Delta. The Delta areas most frequently patrolled are Steamboat Slough and parts of the Sacramento River. In addition, Solano County patrols cover other waterways out of the Delta including Montezuma and Suisun Sloughs. See Exhibit C for patrol jurisdiction.

5. Yolo County [3 vessels; 3 officers; 160 Delta berths.]

Yolo County Sheriff Department uses three boats for marine patrol which are located at Miller Park Marina in the City of Sacramento (see Exhibit B).

The Department employs three full-time deputies who patrol from 8 a.m. to 4 p.m. Wednesday through Sunday. If boat traffic is particularly heavy on a certain day, the deputies will patrol longer. The deputies are also on-call for eight hours each day. Two boats are on the water patrolling at the same time.

Yolo County has 30 reserves in their Sheriff Department, approximately six or seven are qualified to assist the deputies with boat patrol. The reserves working boat patrol are all Level One and Two reserves. Usually one deputy and one reserve will be on board while patrolling.

Along the Sacramento River, Garcia Bend Launch Ramp area, the Interstate 5 overpass, and near Old Sacramento, are the areas more frequently patrolled in Yolo County (see Exhibit C for Yolo County's parole jurisdiction). Yolo County also patrols other waterways outside the Delta including Cache Creek and reservoirs.

6. City of Sacramento Police Department [3 vessels; 0 officers, 0 Delta berths.]

The Sacramento Police Department's marine unit is equipped with three vessels. One boat is berthed at Miller Park Marina and the other two are located at the North Police Facility (see Exhibit B).

The marine unit is staffed entirely with volunteer Level One reserve officers; not paid regular officers. Reserves are on duty each weekend and primarily patrol on Saturdays. They work eight hour shifts on weekends. Beginning mid-October until Spring 1995, Sacramento Police will not operate any patrols in the Delta.

Sacramento Police primarily patrol the Sacramento River near Discovery Park, Miller Park, and Garcia Bend Launch Ramp (see Exhibit C for patrol jurisdiction) to the north of the Delta.

7. City of West Sacramento Police Department [1-2 vessels; 3 officers; 0 Delta berths.]

West Sacramento Police Department's boat patrol is equipped with one boat located at Miller Park Marina in the City of Sacramento. If necessary, they can use the West Sacramento Fire Department's boat.

The Department recently hired three part-time Level One reserves to operate the marine patrol. The reserve officers were employed by the Sacramento City Police Department's marine patrol until the budget was cut. Prior to 1994, full-time regular officers were paid overtime to operate the marine patrol for West Sacramento. In order to cut costs, the Police Department hired part-time reserves; the reserve are paid. The supervisor of the marine patrol is a full-time paid officer. If more officers are needed for patrol or the reserve officers are unavailable, regular officers will work in the boat patrol unit and are paid overtime.³¹

The marine patrol unit patrols every Friday, Saturday, and Sunday for at least eight hours during the summer months of May through September. Two or three employees are on board each boat during patrol. The employees are hired on a part-time basis throughout the entire year, therefore they will patrol randomly (no set patrol schedule) and respond to emergency calls during the off season.³²

West Sacramento patrols from Bright Bend Bridge to approximately four or five miles south of Miller Park Marina. The waters near the marinas are the areas most frequently patrolled (see Exhibit C for patrol jurisdiction).³³

8. U.S. Coast Guard [1 vessel; 13 officers.]

(Note: See Chapter II, Section C(1) for a more detailed description of the Coast Guard's duties.)

The Coast Guard has one boat located in Rio Vista used for Delta patrol (see Exhibit A). The Coast Guard has one boat ready to go on the water 24 hours/day every day of the week. They have no set schedule and patrol the waters of the five counties randomly. Because they patrol all five counties and have only one boat on the water, their response time is usually between 30-60 minutes.³⁴

Thirteen officers work in the station during the day. The Coast Guard has had budget cuts; historically their staff was 19 officers. Five officers are on-call 24 hours a day every day. After 10 p.m., the Coast Guard operates an emergency line.³⁵

The officers and auxiliaries (the Coast Guard volunteer unit) also monitor the Channel 16 emergency channel³⁶ and CB (Citizen Band) Channel 9. The Coast Guard also works with Triple "C" REACT (Radio Emergency Associated Communication Teams) which monitors CB Channel 9.³⁷

9. The Department of Parks and Recreation (DPR) [2 vessels; 5 officers.]

DPR is equipped with one boat, one personal watercraft and one pontoon boat to patrol their properties from Brannan Island to Franks Tract. Their station and equipment is located on Brannan Island State Park, near Rio Vista (see Exhibit B).³⁸

DPR patrols from June until August approximately five hours per week, including weekends. During the winter months they patrol once per month for two-three hours. Their staff is available to assist the five counties and the Coast Guard during emergencies.³⁹

The Department of Parks and Recreation at Brannan Island has five park rangers who are trained peace officers. The five park rangers are the only staff members who are routinely involved in boat patrol. The Brannan Island Station does hire lifeguards who work at the beach area and who are certified to administer first aid.⁴⁰

DPR rangers primarily patrol the waterways around Brannan Island State Park and Frank's Tract, the underwater areas south of the San Joaquin River.⁴¹ DPR rangers are often called upon by the Coast Guard to assist on calls because of their proximity to Rio Vista.⁴²

10. Department of Fish and Game. [6-8 vessels; 15 wardens]

The Department of Fish and Game has an active enforcement program in the Delta operating two programs consisting of approximately fifteen wardens. One program is the regular warden program which enforces Fish and Game Code regulations, responds to pollution incidents, occasionally rescues stranded boaters, recovers stolen vehicles and boats, and assists other law enforcement agencies. Much of this activity is directed from land. The other program is the Delta Bay Enhanced Enforcement Project comprised of five wardens who patrol for poaching activities in the Delta. These wardens are primarily on the water.

Please see Chapter II, Section D, "Poaching", for more information.

Inter-Agency Coordination

Currently, inter-agency communication is limited on the Delta waterways. Communication between different departments within each County are of course very high and resources can be quickly contacted and directed to special circumstances as needed. However, there is very little communication between different Counties, between the Counties and the State agencies, or between the Coast Guard and the other patrols.

The Coast Guard is able to help coordinate County patrols on the Delta waterways if the County patrols radio in the location of units. Currently, only the Contra Costa County Sheriffs marine patrol units regularly coordinate with the Coast Guard.⁴³

Because the marine units of DPR and DFG reflect specific mandates, only in very limited circumstances are the schedules coordinated with local government or the Coast Guard.

The Coast Guard and the Department of Fish and Game have indicated interest in working more closely with the Delta county sheriffs to maximize resources. Unfortunately, the Coast Guard's traditional annual meeting of Delta patrols was not held in 1994. The Coast Guard will have at least one meeting with all Delta law enforcement agencies prior to the start of boating season to enhance communication.⁴⁴

1. Communication.

The five Delta counties, Sacramento City Police, West Sacramento Police, and Department of Parks and Recreation are all able to communicate via marine radio with the Coast Guard stationed in Rio Vista. Coast Guard officials, however, report that currently only Contra Costa County regularly calls in to the Coast Guard to report where they will be patrolling that day so that the Coast Guard can patrol another area. Coast Guard officials report that many times multiple agencies will be patrolling in the same area on the same day, but do not realize this situation because of lack of communication between agencies.⁴⁵

Sacramento County Sheriff's Department is in the process of installing a new radio system which will increase communication with other agencies (other counties, etc.) via the police radio. The marine radio, which all the counties currently use, allows counties to communicate with the Coast Guard only. The police radio system will not be operational for one to two years (1995-1996).⁴⁶

Solano County uses County Net, a county network radio which allows the boat operators to communicate with other Solano County law enforcement agencies.⁴⁷

San Joaquin County, aside from their marine radio, also has an effective radio service that allows contact with other agencies, such as the Drowning Accident Rescue Team (DART) and Mediflight, to coordinate emergency services.⁴⁸

Sacramento City Police communicates via marine radio with Yolo and Sacramento Counties and West Sacramento. Since the Coast Guard's installation of a new radio station located near Crawdad's on the American River, the City can now communicate with the Coast Guard. Because their jurisdictions overlap, the City Police coordinates their patrolling mostly with Yolo County; when Yolo County or West Sacramento is patrolling the south area of the City's shoreline, City of Sacramento will patrol the north area of the City's shoreline.⁴⁹

The Coast Guard governs the operation of drawbridges across navigable waters in California.

Each year the Coast Guard publishes a current list of all the Delta drawbridges with radio channels and telephone numbers. Large boats must call ahead to the bridge operator to have the drawbridge lifted. In case of emergencies, boat operators could also contact bridge operators (see Exhibit D for the list of drawbridges and drawbridge telephone numbers in the Delta).⁵⁰

Generally, all large vessels (over 26 feet) are equipped with marine radios similar to those used by the sheriff's departments and other agencies. Most smaller boats, such as ski boats and fishing boats, are not equipped with marine radios; though many boats use CB radios. Small boat operators can carry cellular phones on board in case of emergencies. : When smaller boats need assistance but have no radios or phone on board, they usually get the attention of larger boats in order to use their phone or radio. Some of the newer houseboats also have marine radios.⁵¹

2. Inter-Agency Agreements

The Coast Guard and the Department of Fish and Game are the only agencies having any formal agreements with the five Delta counties.

The Coast Guard has one boat with fire fighter capabilities and has mutual aid agreements with six Delta area Fire Protection Districts to provide assistance when available; for example during fires, cars in the river, etc.⁵²

San Joaquin County Sheriff's Department has a unique agreement that provides that half of the funds collected from fines from Fish and Game Code citations issued by San Joaquin County sheriffs goes into the County fund for maintaining enforcement for pollution and poaching violations. Note: All California law enforcement officials can write citations for Fish and Game violations.⁵³

The Department of Parks and Recreation works closely with the Coast Guard and its volunteer program - the Coast Guard Auxiliary - to provide boater assistance and boat safety inspections. Many meetings are held at the Brannan Island State Park launch ramp.⁵⁴

The Coast Guard traditionally hosts an annual meeting before the start of the boating season where all the Delta counties and agencies patrolling the Delta are invited to attend to discuss their concerns, needs, and abilities to patrol the Delta effectively. Often a second meeting is held at the end of the boating season.⁵⁵ No meeting was held before the late 1994 boating season due to administrative reasons, however, a meeting is planned for the Fall of 1994.⁵⁶ In 1993 approximately 60 people attended the meeting.⁵⁷

C. Other Services

In addition to patrolling the Delta waterways to enforce local, state, and federal laws, the marine patrols provide a variety of services to boaters. Boaters suffer a number of problems on the waterways including: running out of gas, engine malfunctions, getting lost, collisions, fires, etc. A big problem is boaters without a means of calling for assistance, e.g. marine radio or cellular phone.

1. Towing.

Often, boats will have mechanical breakdowns, run out of gas, or be caught in shallow waters while traveling on the Delta waters. When these situations occur, boaters call the Coast Guard or local law enforcement for assistance, usually towing is required.

The Coast Guard will assist boaters with towing only if no other help is available. Legally, they are not to interfere with commercial enterprise and therefore are to call a commercial salvage crew to aid the boaters. Coast Guard officials will call a specific salvage company if requested by the boater; otherwise they will call the toll free referral networks and the service will call a salvage company. The Rio Vista Station has been given four toll free network numbers. The networks are owned by four parent organizations: BOAT/U.S., Pegasus Marine Assistance, Sea Tow Services International, and Vessel Assist Association. These organizations work with insurance companies such as AllState and AAA, which is why boaters may prefer one network over another. Local Coast Guard units are not to act as dispatcher for these networks, however, if the network is not able to provide assistance to the boater in a timely manner, the Coast Guard will issue a Marine Assistance Request Broadcast. This procedure is available to all towing networks.⁵⁸

The Counties and the City will tow for free or will call a salvage company to assist a boater. Law enforcement officials will normally tow the boater to the closest safe landing, such as a marina.⁵⁹

Sacramento County reports their marine unit tows boaters approximately 2-4 times per week at no cost.⁶⁰ Yolo County reports they tow vessels approximately 30 times per month.⁶¹

2. Other Emergency Assistance

Sacramento County has a Drowning Accident Rescue Team (DART) which specializes in diving for drowning victims caused by boat, swimming, or car accidents. DART is located only in Sacramento County but will respond to emergency calls from outside the county. DART is funded by the State Office of Emergency Services (OES), Sacramento—County Coroners Office, and private donations. All DART members are volunteers.⁶²

Many times cars accidentally drive into the rivers, swimmers drown, and levee vegetation catches on fire. The five county fire departments and paramedics and Delta fire departments, staffed largely by volunteers, all aid these types of accidents. Bethel Island, in the Secondary Zone, also maintains a fire boat that will aid in emergencies occurring outside its district.⁶³

3. Abandoned Vessels

One new problem which is not currently addressed by marine patrol programs is the increasing number of abandoned vessels in the Delta.⁶⁴ Old, stolen and otherwise unusable vessels are being abandoned with increasing regularity in the Delta. Many of these are old wooden vessels which continue to decay and break-up, thus becoming possible hazards to navigation. If the abandoned vessel contains an engine or other unit with oil or gas, those materials will eventually be released into the environment causing localized pollution problems.

Under State law, any peace officer has the ability to tow a vessel which is a hazard to navigation (Harbors and Navigation Code § 523). The vessel must be identified as abandoned, tagged for 30 days, and can then be towed and destroyed. Abandoned wooden vessels are often demolished and taken to a landfill.

Currently, there is no active program to locate, identify and dispose of abandoned vessels. The Army Corps of Engineers and the Coast Guard will only remove hazards to navigation in the two deep water ship channels. The identified problem is lack of funds.⁶⁵

There are private salvage companies, licensed to operate in Delta waters, that could undertake this task, similar to private towing companies that tow abandoned automobiles from public streets, through agreements with local governments or the State or Federal government.

The growing problem with removing abandoned vessels is illustrated by a landowner's recent attempts (September-October 1994) to remove a half-sunken houseboat a quarter mile west of Terminous in the Mokelumne River. The Coast Guard was unable to identify and locate the houseboat's owner through the vessel's CF number. Technically, the houseboat was not blocking navigation therefore the Army Corp of Engineers and the Coast Guard would not remove the vessel. The Coast Guard Marine Safety Office does not recognize the abandoned vessel as "pollution," therefore they can not remove it. The State Lands Commission has no funds to remove abandoned vessels. The houseboat has been abandoned for more than four months.

H. LAW ENFORCEMENT ON THE DELTA WATERS

The primary responsibility of the various marine patrols is enforcement of local, state, and federal laws. The goal of most laws is to provide a safe environment for enjoying the waterways. Speeding, unsafe vessel operation, and alcohol-related incidents continue to be major problems on Delta waters. Counties with less enforcement on the water are unable to arrest for boating under the influence, which may increase this type of unlawful activity. Less enforcement on the Delta waters also contributes to the increase of other violations such as speeding, children not wearing life jackets, poaching, and polluting.

Of particular concern to Delta law enforcement officials are personal watercraft. Personal watercraft use is increasing rapidly in the Delta and statewide, and many of the vessel users are inexperienced and underage. Personal Watercraft accidents accounted for one-third of the total vessel accidents statewide in 1993.

A. Alcohol Related Arrests/Accidents

1. Boating Under the Influence (BUI's).

While Boating Under the Influence (BUI's), the state classification, and Boating While Intoxicated (BWI's), the federal classification, have decreased from 59% in 1986 to 33% in 1993 of all motorboat fatalities, alcohol-related problems are still cited as major problems on the Delta waters.⁶⁶ The blood alcohol level for a BUI or BWI in California is .08%

The Coast Guard fines violators a minimum of \$1,000 but usually does not make arrests because of the difficulty of locating a magistrate. The typical procedure is to contact a county sheriff's department where the violation occurred and the county sheriff will arrest the violator for being drunk in public once he/she has reached land. The Coast Guard's main objective is to make sure the drunken boater gets off the water. The money from the Coast Guard BWI fine goes into the Federal General Fund. The Coast Guard is in the process of attaining recognition for their officers as California Peace Officers for BWI purposes. If the Coast Guard officers are authorized to be California Peace Officers, the BWI citation will go on the violator's State DMV record; currently, since the Coast Guard arrests for BWI's only under Federal law, the citations do not go on the DMV records.⁶⁷

The Counties and the Cities arrest for BUI's and the fine can be as high as \$1,700. To arrest for BUI's takes approximately five to six hours; during this time, accidents may occur where the sheriff's assistance is necessary and patrol presence on the water is needed to deter potential accidents.⁶⁸

In 1992, Contra Costa County had eight BUI arrests, leading the Delta counties, San Joaquin had thirty-two, Sacramento County two, and Solano County two (see Exhibit E for chart).⁶⁹

Due to budget cuts, in 1993, Contra Costa County made no BUI arrests, but the sheriffs department reports that four boating accidents that year involved drunk boat operators. No arrests were made in 1993 or to date in 1994. Contra Costa's Sheriffs' main objective when spotting an intoxicated boat operator is to get him/her off the water as soon as possible. Contra Costa County Sheriffs Department reported that approximately six boaters were spotted last year operating a boat under the influence.⁷⁰

Sacramento County made 26 BUI arrests in 1993 and as of August 1994 had made 40 BUI arrests. The increase in arrests is primarily due to better officer training and equipment. The marine patrol officers also attended BUI school sponsored by the Department of Boating and Waterways.⁷¹

The other county (Solano County statistics are unavailable) BUI arrest statistics for 1993 and 1994 are: San Joaquin County in 1993 had 10 arrests, and as of August 1994, 17 arrests have been made. Yolo County had three arrests in 1993, none reported so far in 1994. Sacramento City Police information for 1993 is unavailable, but they have made one BUI arrest to date in 1994. West Sacramento has had no BUI arrests to date in 1994.⁷²

Yolo County Sheriffs Department last year held, in coordination with West Sacramento and Sacramento City Police Departments, a BUI checkpoint, similar to those on land. Officials reported making two arrests. The checkpoint was deemed an effective intervention method to deter boaters from drinking and driving. No checkpoints were operated in 1994.⁷³

2. Other Alcohol Related Accidents

The Department of Boating and Waterways reports in their July 1994 study that alcohol related boating accidents are not just caused by drunk boat operators. The study reports that the "designated driver" precaution has not been effective in reducing boating accidents because many accidents are caused by intoxicated passengers falling overboard or drunk waterskiers injured while waterskiing (see Exhibit F).⁷⁴ There is no system or law in place to cite such individuals.

B. Personal Watercraft

Personal watercraft are a new recreational "vessel" which have been involved in an increasing number of accidents. Personal watercraft (PWC) is the general term for a broad range of small, powered boats that typically carry one or two persons, and are popularly known by registered tradenames such as Jet Ski, Ski Doo, etc. Last year statewide, personal watercraft accidents accounted for 33.5% of all reported vessel accidents, 41% of all reported injuries, and 7% of all fatalities. However, personal watercraft only account for 11% of all registered vessels, making the amount of accidents disproportionately high.⁷⁵

The Delta also experiences a high number of PWC accidents. Recent reports from county sheriffs and city police patrolling the Delta state that the 1993 Department of Boating and Waterways figures for the statewide on personal watercraft accidents are approximately the same figures for the Delta region.⁷⁶ In San Joaquin County, the percentage of PWC accidents was 14% of all boat accidents in 1992, while the number of registered PWC was only 4% of all registered vessels⁷⁷ (see Exhibits G, H, and I).

Law enforcement officials in the Delta are continually having to enforce 5 mph spec laws on PWC users. Problems with personal watercraft users tend to be concentrated near the marinas, where 5 mph zones are located. Other citations often issued to PWC operator are: operating without a personal flotation device and operating a personal watercraft under the age of twelve.⁷⁸

Personal watercraft users are, according to law enforcement officials, not adequate!) educated about how to operate their watercraft and about boating laws in general. This lack of education is what makes personal watercraft such a serious problem. Sacramento City Police Officers also state that PWC users do not always heed law enforcement officials' > requests to slow down or put on a life jacket.⁷⁹

In order to reach the operators in shallow water areas, local marine patrols are now incorporating personal watercrafts in some patrols. San Joaquin County Sheriff's Department is in the process of acquiring two PWC vessels (on loan from Bombardier Corp., a manufacturer) to make it easier to enforce boating laws pertaining to personal watercraft users. San Joaquin County should have the PWC by January 1, 1995.⁸⁰ The Department of Parks and Recreation has one PWC which they use to patrol between Brannan Island and Franks Tract.⁸¹

Due to the high number of PWC accidents, the Department of Boating and Waterways formed a Personal Watercraft Task Force in 1994 to work with industry leaders on educational safety programs for PWC purchasers.⁸² [See Chapter IV, Section C(2) under Coast Guard Auxiliary for information on their PWC pilot program.]

C. Other Citations

1. Coast Guard-Issued Citations

The Coast Guard enforces all federal and state boating and pollution laws. The Coast Guard, unlike state law enforcement officials, do not need a reason to board a vessel for safety checks, if it is underway on the water. Rio Vista Station Coast Guard Officials report that they write citations most frequently for speeding in regulated zones and equipment violations.⁸³

The Coast Guard also aids boaters in various capacities. The Coast Guard participates in various Department of Defense activities, Navy Fleet and interservice exercises; created a national boating safety program; performs search and rescue missions; aids in navigation; regulates the safety of the United States merchant vessel fleet; prescribes a wide variety of safety equipment for merchant ships such as lifeboats, first aid kits and lifesaving equipment; licensing of merchant vessel operators; protects vessels and waterfront facilities from damage through sabotage, subversive acts, accidents or other causes; enforces marine environmental protection regulations; and is the principal federal agency for maritime law enforcement and marine safety.⁸⁴

2. Speeding

The State of California, pursuant to Harbors and Navigation Code § 665.2, prohibits operation of a vessel over 5mph within 100 feet of a swimmer or within 200 feet of a beach, swimming float, diving platform, or landing flat.

Some Delta counties also have ordinances designating 5 mph zones. Contra Costa County has 5 mph zones at the end of Rock Slough, throughout all of Discovery Bay, at the junction of Indian and Bixler Sloughs, along 1.5 miles of Sandmound Slough, along all the waterways around Bethel Island, and at the junction of Dutch Slough and Jersey Island Bridge. Solano County has a 5 mph zone along Steamboat Slough. Yolo County has a 5 mph zone posted between I and M Street Bridges in West Sacramento. [See Exhibit J for a map of Sacramento County 5 mph zones.] San Joaquin County has approximately forty-one 5 mph zones.⁸⁵

Most speed limits are marked by a buoy or signs showing an orange circle around a black numeral.

3. Required Boating Equipment

Lack of required safety equipment is an extremely common citation. All vessels must carry one personal flotation devices (life vests/jackets) for each person on board.⁸⁶ If the vessel is under 16 feet in length, one wearable or throwable personal flotation device for each person on board is acceptable. If the boat is over 16 feet, a wearable personal flotation device must be on board for each person and only one throwable personal flotation device is required.⁸⁷

A 1993 state law requires all children under the age of seven to wear a flotation device while on board a vessel 26 feet in length or less, with some exceptions.⁸⁸

All motorboats must have at least one, and up to two or three (depending on the size of the vessel) fire extinguishers, one back-fire flame control devices on each carburetor of all gasoline engines installed after April 25, 1940, except out board motors, at least two ventilator ducts fitted with cowls, and a muffler.⁸⁹

Boats over 16 feet must be equipped with a whistle. Boats over 26 feet in length must be equipped with a bell.⁹⁰

4. County Sheriff and City Police Department Statistics

The county and city law enforcement officials enforce all state laws (Harbors and Navigation, Vehicle Code, Code of Regulations, and Fish and Game Code) and county and city ordinances. The overwhelming consensus from all enforcement officials operating in the Delta is that excessive speeding and equipment violations are the most frequently cited violations.⁹¹

Last year, Contra Costa County issued 45 citations for excessive speeding, 10 citations for skiing without an observer, and five citations for negligent operation of a vessel.⁹² Yolo County issued three citations for county speed violations, eight citations for no personal flotation devices, 31 citations for failure to pay parking fees at county boat ramps, 15 for negligent operation of a vessel, 13 for equipment violations, 22 for no registration, and three for Fish and Game violations. Three Yolo County ordinances most commonly enforced are excessive speeding between I and M Street bridges, failure to pay fees at county boat ramps, and having no personal flotation device on board.⁹³

Sacramento County issued 125 citations for equipment violations, 100 citations for speed violations, and a combined total of 75 citations for other violations such as no registration or skiing without an observer, etc.⁹⁴

San Joaquin County Sheriffs Department, City of Sacramento Police Department, and West Sacramento Police Department reported they issued the most citations for equipment and speeding violations but do not keep specific statistics.⁹⁵ Solano County statistical information is unavailable.

5. Illegal Structures

Though state law enforcement officials have the authority to cite for illegal structures along the waterways (docks, ski jumps, boat houses, etc.) they generally do not.

San Joaquin County Sheriffs Department is the only Delta County that reported issuing citations recently for illegal structures along the waterways. Since their marine patrol unit has been reinstated, they have issued a great many citations for illegal docks. During fiscal year 1993-94 when the Sheriff's Department did not patrol, many people built docks knowing they would not likely be caught. Once the officer spots the illegal dock, the case is referred to the District Attorney's Office.⁹⁶

D. Poaching

Poaching is defined as trespassing on another's property to hunt or fish or to take fish or game illegally, for example taking fish out of season, or fish that are too small, too large or taking too many fish. Poaching of fish and wildlife occurs in the Delta and has been identified as one of several factors adversely affecting Delta fisheries. Laws exist regulating the equipment which may be used. Only crawdads may be fished commercially in the Delta.⁹⁷

The Department of Water Resources (DWR) estimates that more than 500,000 undersized striped bass and tens of thousands of adult striped bass are illegally taken each year. Many fish are taken by individual fisherman to feed themselves or their families. Other poachers work as teams using illegal long lines (long fishing lines with multiple hooks) or illegal gill nets to catch large amounts of fish to sell on the black market. The maximum number of hooks allowed on a fishing line used in the Delta is three hooks; gill nets are illegal in inland waters.⁹⁸

1. Delta Bay Enhanced Enforcement Project

Over the years, wardens have been added to the Department of Fish and Game (DFG) law enforcement ranks to deal specifically with poachers, to augment the efforts of regular DFG wardens. In 1986 DWR and DFG agreed to offset direct losses of fish caused by both poaching and the State Water Project's (SWP) pumping plant. The two agencies formed the Delta Bay Enhanced Enforcement Project (DBEEP) which is comprised of a team of wardens hired by DFG to reduce poaching and other illegal fishing practices in the Delta. The team is equipped with three patrol boats, radar, fish finders, plotter navigation systems, night scopes, marine radios, and cellular phones.⁹⁹

DBEEP is wholly funded by DWR using funds from the SWP Contractors. Since 1986, the SWP Contractors have spent about \$14 million through the DWR/DFG agreement to protect Delta fisheries. The Delta DBEEP team's operating budget from fiscal year 1992-93 through 1996 is \$3.7 Million. The budget includes the five Delta DBEEP wardens' salaries, plus the expanded program which recently hired more wardens including two in the Carquinez area, all the equipment, and administrative and operating costs.¹⁰⁰

The five Delta DBEEP wardens each patrol four days per week for ten hours. DBEEP wardens work every day of the week. DBEEP wardens normally patrol the waters from 3 p.m. until midnight. Water patrolling varies depending on whether they are called to investigate a poaching incident by an anonymous tip or another law enforcement agency. DBEEP wardens are on the water more frequently during the months of October through February because of fish migration patterns. DBEEP boats are berthed at the Coast Guard Station in Rio Vista, at Rough and Ready Island, and in Benicia State Park (see Exhibit B).¹⁰¹

From 1986 to September 1994, Delta DBEEP wardens issued 4,500 citations for poaching and other Fish and Game violations. Wardens believe they only catch one to ten percent of the poachers.¹⁰²

2. DFG Wardens

One of the duties of regular DFG wardens is to patrol during fishing season to seek out fishing violations such as poaching or fishing without a license. Approximately eleven regular wardens patrol the Delta area, half are assigned to the North Delta and half are assigned to the South Delta.¹⁰³

Though most patrolling takes place on land, Delta area DFG wardens do patrol on water. DFG has six to eight boats for Delta patrol located in Walnut Grove, Rio Vista, Miller Park, and Rough and Ready Island (See Exhibit B). DFG wardens, depending on the time of year, spend three days a week on the water. During fishing season, however, wardens patrol on the water more days per week for longer hours.¹⁰⁴

3. CalTIP

To encourage the public to report sightings of poachers, DFG operates a program called CalTIP. A person witnessing a poaching incident or who has any information about a poaching case can dial CalTIP at 1(800) 952-5400 toll free (24 hours a day). If the call is valid and an arrest is made, the caller will receive a cash award.¹⁰⁵

The process is fairly simple. The warden answering the call takes down the information and assigns the caller a code number. No names or other means of identification of the caller are used. Information from the call is relayed to the Fish and Game region where the offense occurred and an investigation is undertaken locally. If the witness information leads to an arrest - a conviction is not necessary - the caller immediately becomes eligible for a cash award. The case then goes to a Citizens Review Board. The five members of the Board evaluate the case for its impact on fish and wildlife conservation and determine the amount of the reward on that basis. Rewards of up to \$1,000 have been approved in the past. The CalTIP program is a non-profit organization that takes donations to help stop poaching.¹⁰⁶

E. Pollution

The Department of Fish and Game, the Coast Guard, and the five counties enforce pollution laws in the Delta waters.

The Department of Fish and Game wardens enforce litter laws near waterways and as peace officers are able to write citations and arrest for other violations.

— The Coast Guard and counties cite for pollution violations, such as oil spills, illegal dumping of sewage, etc. However, not many citations are issued because violators must be caught "in the act." The Coast Guard's Marine Safety Program enforces federal pollution laws.

1. Federal Pollution Enforcement Program.

a. Federal Pollution Laws. The Coast Guard has had the responsibility of establishing and enforcing regulations dealing with marine environmental protection since the first pollution laws were passed in 1899. The Coast Guard enforces four federal pollution regulations: 1) the Refuse Act of 1899 prohibits throwing, discharging or depositing any refuse matter of any kind (including trash, garbage, oil, and other liquid pollutants) into the 'waters of the United States; 2) the Federal Water Pollution Control Act prohibits the discharge of oil or hazardous substances which may be harmful into U.S. navigable waters; 3) the Act to Prevent Pollution from Ships (MARPOL ANNEX V) places limitations on the discharge of garbage from vessels; and 4) all recreational boats with installed toilet facilities must have an operable marine sanitation device (MSD). All MSD's must be Coast Guard certified.

Regulations issued under the Federal Water Pollution Control Act require all vessels with propulsion machinery to have a capacity to retain oily mixtures on board. A fixed or portable means to discharge oily waste to a reception facility is required. A bucket or bailer is suitable as a portable means of discharging oily waste on recreational vessels. No person may intentionally drain oil or oily waste from any source into the bilge of any vessel. Regulations require vessels over 26 feet to display a placard near the machinery spaces stating that discharge of oil is prohibited. The placard must state that an oily discharge is illegal if the discharge causes a film or sheen upon, or discoloration of, the surface of the water, or causes a sludge or emulsion beneath the surface of the water. Violators of oily discharges are subject to a penalty of \$5,000.¹⁰⁷

The Act to Prevent Pollution from Ships makes it illegal to dump plastic trash anywhere in the ocean or navigable waters of the United States. The Act also makes it illegal to discharge garbage in the navigable waters of the United States. [This Act is different from the Refuse Act of 1899 because it permits the discharge of certain types of garbage outside of specific distances offshore as determined by the nature of that garbage.] All vessels over 26 feet must display a placard stating the discharge restrictions.¹⁰⁸

b. Federal Pollution Law Enforcement. The Coast Guard investigates oil and hazardous materials spills in the water. The Coast Guard does not respond to calls reporting sewage dumping/problems; sewage is not classified as pollution. All sewage dumping calls are referred to the Department of Fish and Game or the Regional Water Quality Control Board.¹⁰⁹

The Coast Guard investigates on an on-call basis only; they do not actively patrol for pollution violations. Their mandate is to investigate every call they receive, which is difficult because of their limited staff. Many times less significant cases are dealt with over the phone. If the Coast Guard is unable to respond to an important call, they will refer the case to other state or federal agencies (Department of Fish and Game or the Bureau of Land Management).¹¹⁰

The penalties for general discharge of oily wastes are up to \$25,000 per violation per day. The district covering the region from East Pinole to the Sacramento River charges an average of \$250 to \$10,000 per violation per day. The monies received from penalties goes into the Oil Spill Liability Fund. Money from this fund also comes from the federal gas tax. This fund is used for emergency clean up similar to the Exxon Valdez spill.¹¹¹

The Coast Guard District that enforces pollution for the Delta (not the Coast Guard Rio Vista Station - the pollution department operates much larger districts) has an average case load of 40 or 50 cases per month. However, their 1994 statistical reports show only 11 cases for January, 7 cases for February, 5 cases for April, 7 cases for May and 9 cases for July. The majority of pollution cases occur in areas where large ships dock or travel, i.e. the Sacramento and Stockton Ports and the Deep Water Ship Channels. Specific Delta regional information on numbers of pollution investigations and what type of pollution violation is unavailable.¹¹²

2. State and Local Pollution Enforcement Program.

a. State Pollution Laws. The State of California prohibits dumping garbage into its navigable waters under Health and Safety Code § 4401. Garbage is defined as refuse, cans, bottles, paper, vegetable matter, carcass of dead animal, offal, trash, and radioactive waste materials. Harbors and Navigation Code § 654.1 requires marinas constructed with state funds to provide shoreside facilities for purposes of emptying waste matter from holding tanks on vessels. However, very few Delta marinas have pumpout facilities.

Though the Federal Water Pollution Control Act provides the standards for marine sanitation devices, the State, pursuant to Harbors and Navigation Code § 776, also requires that every vessel terminal be equipped with vessel pumpout facilities for the transfer and disposal of sewage from marine sanitation devices.

b. State Pollution Law Enforcement. All California peace officers, including Fish and Game wardens, police officers, and sheriffs have the authority to enforce the Harbors and Navigation Code marine sanitation regulations and the State Health and Safety Code pollution regulations.

County and City law enforcement officials have the authority to enforce state pollution laws, however, very little enforcement occurs. In order to cite for a pollution violation the officer must have caught the polluter in the act or a witness must have photos or a video of the polluter performing the violation, for example emptying a holding tank into a waterway. Therefore, it is not surprising to note that local law enforcement officials issued no pollution citations last year.¹¹³

The two major ports in the Delta, Sacramento and Stockton, have port police that respond to pollution incidents within the Ports. The Stockton Port Police Department is equipped to place absorbent rings around the spill before it spreads if an oil or other hazardous material spill occurs.¹¹⁴

The Sacramento Port Police are not equipped to respond to pollution spills, however, they call Erickson Inc. when major oil or hazardous material spills occur. Erickson Inc. is a corporation located in Sacramento that performs hazardous waste cleanups. Sacramento Port officials report that approximately two pollution incidents occur every year.¹¹⁵

III. BOATING ACCIDENTS ON THE DELTA WATERS

According to the Department of Boating Waterways newly released study, California Boating Accident Report for 1993 (July 1994), a total of 743 accidents involving 434 injuries, 67 fatalities and \$2,052,800 in property damage were reported for 1993 for the entire state of California. (Note: These figures are probably only 10-15% of accidents that actually occurred; most accidents go unreported.) Of accidents reported statewide, Contra Costa ranked fifth and San Joaquin County ranked sixth, as having the highest number of boating accidents (see Exhibit K).¹¹⁶

Though California has witnessed an overall decrease of 68% of boating fatalities since 1974, the Delta region has not. According to the United States Coast Guard stationed in Rio Vista, in 1989, only one fatality was reported; in 1993, 29 fatalities were reported (this includes only those accidents the Coast Guard inventoried).

Furthermore, the U.S. Coast Guard Rio Vista Station averaged the most unit cases (unit cases include searches, rescues, towing, distress calls, etc.) from 1989-1992 among the 10 stations California; Rio Vista averaged 17.6% while the next highest station, Long Beach/Los Angeles, averaged 15.0% (see Exhibit L).

As of August 1994, the Coast Guard Rio Vista Station reports five fatalities, 12 lives saved from boating accidents, \$112,000 in property damage, and assistance provided to 456 people with boating problems ranging from accidents to towing.¹¹⁷

The increase of boating fatalities in the Delta may be linked to the decrease in law enforcement on the Delta waters. Due to budget constraints, funding for county marine patrol programs has been significantly reduced resulting in fewer peace officers and fewer boats on the Delta waterways. Though the Coast Guard, the five Delta sheriff departments and the City Police enforce boating safety laws in the Delta; the County decreases have been dramatic and the Coast Guard is unable to provide compensating staff. For example the counties with the most boating activity and largest marine patrol units, Contra Costa and San Joaquin Counties, reduced their programs by 75% (Contra Costa County) and by 100% in 1993 (San Joaquin County).

VOLUNTEER AND EDUCATIONAL PROGRAMS

For years, and particularly with the recent funding cutbacks to County marine patrols, volunteer groups have provided invaluable services to the boating public. The focus of the Coast Guard Auxiliary and the Power Squadron have long been boater education and equipment inspection. The guiding concepts have been to assist the boater in becoming skilled in vessel operation and thus avoid problems on the water.

Newer groups, such as San Joaquin County's STARS program, have provided boater assistance which allows marine patrol staff to focus on law enforcement. The STARS program focuses on assisting boaters in distress and reporting incidents needing further assistance to the proper authorities.

A. S.T.A.R.S.

S.T.A.R.S. is an acronym for Sheriffs Trained Active Retired Seniors. STARS is a volunteer safety patrol program created in San Joaquin County in December of 1991. The marine watch program was implemented two years ago. The program's goal is to serve the public; their motto is to Observe, Listen, Back-off and Report. Their principal duty is to serve as lookouts who forward information about boating safety violations to the Sheriffs Department and the Coast Guard. They also assist the Sheriffs Department with boating accidents, distressed boaters, drownings, provide first aid to injured persons, and deter boating violations. They are not a substitute for law enforcement and do not write citations.

Currently, the STARS program has a total of 300 volunteers, 65 of which are dedicated to boat patrol. Four captains operate and coordinate the boat patrol program. The volunteers purchase their own uniforms consisting of a shirt, pants, windbreaker jacket and a cap. Volunteers do not wear a badge but do display the San Joaquin County Sheriffs Department logo. The volunteers must be over the age of 50, be able to attend monthly meetings, and dedicate 16 hours per month volunteering. All volunteers must attend a 40 hour training academy and are required to be experienced boaters.

STARS volunteers are on the water Wednesday through Sunday during day-light hours, usually for eight to nine hours each day. The volunteers also operate on an on-call basis 24 hours per day every day of the year. However, STARS will not go on the water if fog, storms, or other types of dangerous conditions exist.

STARS has four boats berthed at Tiki Lagoon, Village West, Ladds, and Stevens Marinas (See Exhibit B). The storage/boat slips are donated. Marina owners appreciate the STARS presence at their marinas because of their deterrent affect on boaters. Volunteers also perform "walkabouts" at the marinas. Another boat was recently donated to STARS, so one more boat will soon be on the water patrolling. All STARS vessels bear the San Joaquin Sheriffs Department logo.

The program is a 501 (c)(3) nonprofit organization funded by donations. The boats are all donated by private individuals and businesses. The STARS volunteers pay for the boats' fuel. Maintenance of the vessels and the program's operating costs are paid for by funds raised by the program's coordinator, Mr. Weldon Burson. Mr. Burson raises an estimated \$30,000 to \$40,000 per year to run the program.

Other duties the volunteers perform are: monitoring 5mph zones posted by the county, installing buoys, and issuing reports informing the Sheriffs Department where more enforcement is needed and where 5 mph zones should be located. STARS volunteers will not tow distressed boaters but they won't abandon the boater; STARS volunteers will call a salvage company or the Coast Guard for assistance. Currently the STARS program is implementing a BUI/DUI prevention program with the Sheriffs Department.

The STARS Program is covered under San Joaquin County's insurance policy if a volunteer is in a boating accident. The county insurance policy only covers property damage. Each STARS volunteer's medical insurance policy covers any injuries that may occur until they reach 55. Volunteers who are 55 or older qualify to be insured under the Retired Senior Volunteer Program, R.S.V.P. After the volunteer's own medical insurance policy maxes, RSVP will pick up the remainder of the balance. San Joaquin County does not cover workers compensation for STARS volunteers, but will pay for injuries that exceed the injured's policy.

The STARS program has been implemented in 17 other counties, 10 states, as well as Australia and Canada. The STARS program in San Joaquin County has received positive feedback from the community, especially from the boating community.¹¹⁸

B. Contra Costa County Marine Posse

Contra Costa County Sheriffs Department has a Marine Posse program. Volunteers are deputized as members of the Marine Posse and assist the Sheriffs Department in parades, boat shows, and fund raisers to support boat patrol. This year the money raised by Posses purchased two cellular phones and a boat top for the Sheriffs Department marine patrol vessel.

The Posse members do not have deputy status, and are not authorized to make arrests or issue citations. They do not perform any law enforcement functions nor are they certified to assist in search and rescue missions. Marine Posses do wear uniforms, however, they are notably different from regular or reserve officer's uniforms.¹¹⁹

C. Coast Guard Auxiliary

The Coast Guard Auxiliary is a civilian organization of volunteers formed in 1939. Its members aid the Coast Guard in search and rescue missions, courtesy boat inspections, and boater education. Membership is open to citizens of the United States who are 17 years or older, who either own a vessel, or have special training and experience to qualify for Auxiliary membership. The mean membership age is 55. Most members join the Coast Guard Auxiliary because they enjoy boating and want to promote boating safety.

Auxiliarists who are operators/coxswain must complete 24 hours of patrol, 12 of which must be as the actual operator of the vessel. To retain crew member status, Auxiliarists must complete 24 hours as a crew member on the water. Furthermore, Auxiliarists patrolling the waters must also pass a variety of tests and attend certain programs every five years such as the Navigation Rules Test, First Aid, Proficiency in Towing, and the Recertification Program.

Auxiliarists wear the Coast Guard uniform while patrolling and performing courtesy marine examinations. Their uniform is the same worn by the Coast Guard personnel, but distinguished by special Auxiliary insignia and accoutrements. The Coast Guard also pays for Auxiliarists' vessel fuel and meals while patrolling. Permanent auxiliarists (15 to 20 years membership) pay dues to the Auxiliary District Financial Office.

The Coast Guard Auxiliary has approximately 56 flotillas in the Northern Region. In the Delta region, flotillas are located in Sacramento, Rio Vista, Bethel Island, and Stockton. The individual flotillas have no set patrol schedules, members will devote time when it is feasible to do so. In the Delta region as of January 1, 1994, Auxiliary members had patrolled a total of 3,470 hours. The number of patrols was 454. Auxiliarists in the Delta had made 118 rescues and 23 air patrols. The boats and the helicopters/airplanes are all owned by Auxiliary members. Delta Auxiliarists own 399 boats. Flotillas can establish dues which are managed by the Flotilla Finance Officer, not the Coast Guard.¹²⁰

1. Boater Education

The Coast Guard Auxiliary is widely known for its boating safety classes. The classes are offered at the start of the boating season in April and at the end of the season in October. The boating safety classes are free (however, attendees must pay for books and materials) and instruct boaters on boat handling, safety and legal requirements, navigation rules, aids to navigation, piloting, marine engines, basic sailing and maneuvering, trailering, weather, radio telephone and inland waterway locks and dams. Attendees receive a certificate upon completion. The program consists of thirteen lessons spread over several weeks. Aside from the two boating safety classes held in various locations each year, the

Coast Guard Auxiliary also sponsors other classes: Advanced Coastal Navigation, Basic Coastal Navigation, Water N Kids, Boats N Kids, Sailing and Seamanship, and Boating Safely. Boating safety classes offered by the Coast Guard, however, only focus on federal boating laws.

Coast Guard Auxiliarists also provide courtesy marine examinations. Boat owners may request the examinations to ensure that their boats are safe and properly equipped. Auxiliary vessel inspectors do not report defects to authorities but use the inspection as an opportunity to teach boat owners about safety. Auxiliarists hold scheduled courtesy marine examinations and advertise their locations and dates in local newspapers. Boat owners are also free to call their local flotilla and request an examination at any time.

Auxiliarists also conduct marine dealer visits (MDV's). Auxiliarists visit boat dealerships and marinas to pass out boater safety pamphlets and flyers published by Department of Boating and Waterways and the Coast Guard. Auxiliarists educate boat dealers and potential boat owners on boating safety and vessel operation. Many times, Auxiliarists set up boating safety classes at the boat dealerships and marinas. The goal is to make sure that boat dealers do not hand over the keys to an inexperienced new boat owner. During their visit, Auxiliarists also perform dockside marine examinations. Between January 1, 1994 and September 1, 1994, Auxiliarists made 1,203 marine dealer visits in the larger Delta region.¹²¹

2. Personal Watercraft

In 1994, the Coast Guard Auxiliary started a Personal Watercraft Patrol Pilot Program. The pilot program is one of kind in the Western United States. The pilot program operates out of the Sacramento Flotilla and patrols the area on the Sacramento River from the 1-5 Bridge, south to Freeport. Approximately eight Auxiliarists are trained to patrol the waters on personal watercraft and aid in search and rescue. The Auxiliarists, also educate personal watercraft users on safety.

The personal watercraft have proved to be effective in search and rescue efforts because of their ability to arrive on the scene quickly and can operate in shallow areas. Personal watercraft have also been effective in towing as well; one weekend Auxiliarists towed a houseboat using three personal watercraft. In 1994, the Personal Watercraft Program made over 30 assists to boaters.¹²²

D. U.S. Power Squadron

The U.S. Power Squadron is a national organization with squadrons located across the U.S. and Canada. The group was originally formed in 1914 and was part of a yacht club. The Power Squadron was a social group that educated its members on power boating safety and skills. In 1941, the group realized its effective education capabilities and began offering its boater education services to the public. In modern times, the group still functions as a

social club, but also serves the community by offering boater education classes and assisting the United States Department of Commerce with updating regional charts. A Squadron formed in San Joaquin County in 1970.¹²³

The Power Squadron, in conjunction with the Coast Guard Auxiliary offers boating and seamanship classes both in the spring and fall. Upon completion of the classes boaters receive a certificate stating they are certified boaters. The Power Squadron also offers a Skipper Saver Program which instructs vessels owners and their first mate how to operate the vessel when the captain is incapacitated. The program is conducted partly in the classroom and part on the vessel. The U.S. Power Squadron is in the process of implementing a Boating Safely Program directed towards young children.¹²⁴

The Power Squadron in San Joaquin County works closely with San Joaquin County Sheriffs Department. The Sheriff's Department boat patrol officers teach portions of the Squadron's boating safety courses, focusing their instruction on State boating laws. The Sheriffs' officers receive training from Squadron members as well.¹²⁵

The Squadron in San Joaquin County has 200 volunteers. The volunteers operate their own boats when assisting with charting. Also, the volunteers are continually receiving training. Members of the Squadron are instructors for both the public courses and the Squadron courses. Instructors receive no pay. Members of the Squadron pay dues which vary, but average \$50 per year.¹²⁶

RESOURCES

A. Vessel Personal Property Tax

The primary funding source for county marine patrols has traditionally been personal property tax revenue from vessels. Vessel tax revenue is determined by applying a county general fund tax allocation factor to the total personal property tax of assessed registered vessels. Theoretically, these funds are to support each county's marine patrol program.¹²⁷ However, counties report that the shift of property taxes from local governments to the state (as part of the 1992-93 state budget) resulted in the counties losing much of the property tax they received from vessel taxes.¹²⁸

B. Department of Boating and Waterways Subvention Program

The State of California through the Department of Boating and Waterways Subvention Program offers counties financial aid for boating safety. The program was developed to provide funds to counties with low vessel property taxes yet high levels of vessel traffic. Counties, in order to qualify for this state aid, must allocate 100% of vessel personal property tax proceeds to their marine patrol programs. Most Delta counties have been unable to participate in the program because of their inability to dedicate 100% of their personal property tax revenue; the revenue was needed to support other critical and underfunded programs such as jails, juvenile justice programs, and mental health clinics. Only Yolo County participated in DBW's Subvention Program in Fiscal Year 1993-94.¹²⁹

Counties who do participate in the program must report to DBW the total cost of their marine patrol program and the amount of revenue received from taxes from vessels. DBW tries to provide the difference in the two figures, but does not provide support in excess of the total estimated marine patrol operating costs.¹³⁰

The DBW Subvention Program is funded by the Harbors and Navigation Revolving Fund, which is funded by vessel registration fees and through taxes levied on boat gas. In years past, the Harbors and Navigation Revolving Fund has been redirected to other state programs, and thus has been unable to fully meet the needs of the counties for marine patrol. The DBW Subvention Program budget for 1994-95 is \$3.8 million. The Program, as of November 1994, received requests for aid from counties totaling \$6 million.¹³¹

In Fiscal Year 1994-95, Solano, Yolo and San Joaquin Counties participated in the DBW Subvention Program. Solano County received \$128,000, Yolo County received \$211,000, and San Joaquin County received \$200,000. Yolo County's grant also supports the West Sacramento Police Department boat patrol. Sacramento and Contra Costa Counties did not participate in the program this year but both counties did apply for federal grants for equipment and supplies through DBW. Sacramento County's petition to replace one patrol boat was accepted and the County is in the process of acquiring the boat. Contra Costa County also petitioned to replace a patrol boat; status of grant approval is unavailable.¹³²

C. Other Marine Patrol Funding Sources

The U.S. Recreational Vessel Fee program which came into effect August 1, 1991, required recreational boat owners operating vessels on federal waters to pay an approximately \$10 per year fee and display a decal. The revenue generated from the vessel fee program was to support marine patrol services, namely the Coast Guard. Since the legislation's enactment, it has drawn considerable opposition and criticism; the program's funds were not supporting marine patrol. The U.S. Recreational Vessel Fee was repealed, effective October 1, 1994.

D. Revenue from Citations

The revenue generated from the citations issued by the Coast Guard goes into the Federal General Fund.¹³³ The revenue generated from county and city citations goes to the state and county general funds.

In Contra Costa County, the fine for water skiing without an observer is \$135. Speeding citations cost \$54 plus 10%, and negligent operation of a vessel is \$405.¹³⁴ Every State violation adds a penalty assessment of \$17 for every \$10 of the fine or a fraction thereof. The penalty assessment fee goes to the State General Fund. Some State violations add a court cost on top of the bail and assessment fees as well. The court costs also go to the State (see Exhibit M for bail schedule and penalty assessment chart).¹³⁵

1. County Totals

In 1993, Sacramento County generated approximately \$115,000 in revenue from boating citations. Yolo County and Contra Costa County were unable to provide the exact amount of revenue generated from citations last year. However, Contra Costa County reported that in 1987, their Sheriffs Department wrote 650 citations and generated \$36,000.¹³⁶

San Joaquin County reported receiving \$200,000 from citations issued for Fish and Game and Harbors and Navigation Code violations. San Joaquin is the only County having an agreement with the Department of Fish and Game whereby they keep 50% of the revenue generated from citations issued by county law enforcement officials for Fish and Game violations. Fifty percent of the money received from the Fish and Game citations goes to the state and the other 50% goes into the Fish and Game Propagation Fund. The Propagation Fund supports Fish and Game patrol in San Joaquin County.¹³⁷

VI. FINDINGS

1. Inter-agency coordination and communication is extremely limited. Most larger vessels are equipped with communications equipment. Smaller vessels are unable to communicate unless a CB radio or cellular phone are on board.
2. The Coast Guard has traditionally hosted at least one annual inter-agency meeting to coordinate activities and any changes in law or regulations.
3. The County Sheriffs and City police tow distressed boaters free of charge. During busy boating seasons, local governments report that their marine patrols frequently tow distressed boaters.
4. The number of abandoned vessels in the Delta is increasing. Currently there is no active program to locate, identify, and dispose of abandoned vessels. To remove and dispose of abandoned vessels is costly.
5. The five Delta Counties and Cities of Sacramento and West Sacramento provide marine patrol services on Delta waterways. The Cities of West Sacramento and Sacramento are located in the Primary Zone. Services are provided by peace officers and reserves that are trained professionals with the ability to issue citations and make arrests. Local peace officers can enforce all local and State laws.
6. The county marine patrol services have been drastically reduced in the last few years due to budget cuts. The level of marine patrol services is not proportionate to the level of boating activity or number of berths in the Delta.
7. The Coast Guard operates an active facility in Rio Vista with responsibilities for the entire Delta region. Budgets have been cut; one boat patrols the entire area. The Coast Guard supports fire-fighting activities when needed. The Coast Guard is capable of coordinating County patrols. Currently, only Contra Costa County marine patrol regularly coordinates with the Coast Guard.
8. Department of Parks and Recreation provides limited marine patrol services, largely on Park properties and when called to assist the Coast Guard in an emergency. Park rangers are trained peace officers.
9. Department of Fish and Game wardens provide land and water patrol services oriented to enforcement of the Fish and Game Code. Wardens are trained peace officers able to enforce all State laws if necessary.

10. Delta law enforcement officials indicate that boaters are taking advantage of the decrease in law enforcement personnel patrolling the Delta waters by violating speeding, equipment, and other boater safety laws.
11. PWC* continue to grow in popularity and visibility and are responsible for an extremely high proportion of accidents and injuries. Operators continue to violate boating laws pertaining to PWC* operation.
12. Poaching has been identified as a significant problem in the Delta affecting wildlife. Substantial State resources are currently expended from funds generated from State Water Project contractors to supplement normal patrolling activities. Department of Fish and Game encourages public assistance in the form of the CalTIP program (anonymous telephoned tips).
13. Though State law enforcement officials have the authority to cite for illegal structures constructed along the waterways, generally they do not.
14. There is little current enforcement of State and Federal pollution laws. Releases must be witnessed first hand or documented in photos or videos.
15. Intoxication continues to be a major problem resulting in accidents. Due to the major time commitment needed to make an arrest for intoxication, few are made. Instead, intoxicated boaters are directed off the water.
16. While the State overall has had a decrease in boating fatalities, the Delta region has not. Department of Boating and Waterways statistics show seven fatalities in 1989 and 12 in 1993.
17. The Legislature has been debating several proposed laws which would require additional equipment or training to enhance safety and public health aspects of recreational boating. Newly authorized legislation will provide additional protection for young children in vessels and ease in the provision of new pump-out facilities statewide.
18. Lack of adequate education and training of boat operators continues to result in accidents and violation of local, State, and federal laws on the waters of the Delta.
19. Volunteer programs provide extremely valuable services to boating through provision of supplemental patrols on Delta waterways, through boating education programs, and through provision of boating inspection services.

20. Reported funds generated from citations issued by County marine patrol staff range from \$100,000 to \$200,000, with extremely reduced personnel. Funds from citations do not meet fiscal requirements of current programs, but appear to offset a substantial portion of those costs.
21. Counties have slashed funding available for Sheriff Departments' marine patrol programs in recent years. Vessel personal property tax revenue is the primary source of revenue from boaters to County governments and reflects only those vessels permanently located in a county. These funds are collected by the counties.
22. State funds are generated from vessel registration fees (\$9 for original registration and \$5 annual renewal fee; \$27 plus Vehicle License Fee per year for boat trailers) and from sales tax on boat gas. Some of the funds collected are designated for a subvention program for marine patrol funding managed by the Department of Boating and Waterways. Annual grants vary based on amount of funds collected, number of counties applying for funding, and the level of need of the applicant counties.
23. Vessels documented by the Coast Guard are exempt from State registration.

“Personal Watercraft” (PWC) is the general term for a broad range of small, powered boats that typically carry one or two person, and are popularly known by registered tradenames such as Jet Ski, Ski Doo, etc.”

VII. POLICIES

1. Marine patrol equipment should be adequate to ensure communication with other county marine patrols, with State patrols on Delta waters, and with the Coast Guard.
2. Local government marine patrols shall notify the Coast Guard when and where patrols are on the water.
3. Local government marine patrol units shall participate in at least one meeting per year to coordinate with other Delta law enforcement programs to develop strategies for effective control, to discuss new laws and programs, and generally increase effectiveness and communication between the various marine patrol programs.
4. Local governments shall develop methods for quick processing of intoxicated boat operators which ensure that marine patrol staff remains on the water.
5. Local government marine patrol services shall recognize towing of disabled vessels as a low priority activity and shall develop relationships with volunteer groups or private vendors to provide such services.
6. Local governments shall develop funding and implementation strategies to remove abandoned vessels from County waterways to avoid pollution of Delta waters and remove hazards to navigation.
7. Local government marine patrol programs shall coordinate with Department of Fish and Game to provide support in enforcement of State hunting and fishing laws.
8. Local governments shall provide adequate levels of marine patrol to ensure public health and safety on the waters of the Delta, taking into account funding available and the number of vessels moored in the Delta, launched into the Delta, and which travel into the Delta.
9. Local governments shall identify problems and solutions surrounding crimes of environmental pollution. Local governments shall consider feasible solutions (additional pump-outs, dye tablets in holding tanks, rewards for observers, etc.).
10. Local governments shall implement or support education and safety programs to address local, state, and federal laws aimed especially at PWC operators and means to encourage attendance at such programs.

11. Local governments shall implement or support boater education programs to address local, state, and federal laws and means to encourage attendance at such programs.
12. Local government marine patrol programs shall encourage and coordinate with volunteer programs within their jurisdiction as a way to supplement human resources on the Delta waterways.
13. Adequate funds should be reserved for marine patrol services. Sources could include: reservation of existing funds such as vessel property tax, launch ramp fees, fines collected from violators, County share of Fish and Game Code violation fines, and possible funds generated from rental houseboats, boats or PWC,* or from marina berths.

1. The Coast Guard should host at least one and preferably two meetings per year of marine patrol programs to promote coordination and communication between the programs. Attendees should include: Counties, Cities, Ports, Department of Fish and Game, Department of Parks and Recreation, and any non-profit or volunteer groups providing education and training or patrol services in the Delta waters.
2. Department of Parks and Recreation (DPR) rangers should continue to patrol the State parks, and provide as much supplemental assistance to local governments and to Department of Fish and Game as possible. DPR rangers should enforce hunting and fishing laws and enforce pollution laws on the waters of the State parks.
3. Department of Fish and Game wardens and DBEEP staff should inform the Coast Guard of their general activities, and special enforcement programs.
4. A system for State peace officers to inform County marine patrols of intoxicated boat operators should be developed and instituted.
5. Department of Boating and Waterways should continue boating education programs and continue current programs to fund installation of new pump-out facilities.
6. Non-profit and volunteer organizations should continue to assist in patrolling the Delta and offering assistance, such as towing, to stranded boaters. Boater education and inspection programs carried out by volunteers should continue and be promoted by all entities associated with Delta boating.
7. The Legislature should carefully and thoughtfully consider possible legislation and funding to enhance boater safety and welfare which may be suggested by local and State enforcement programs or by non-profit/volunteer groups, such as mandated boater training, hazard removal, hazard posting, and pollution cleanup.
8. The Legislature should designate adequate funding for boater education and marine patrol services.
9. The Legislature should consider possible legislation requiring boaters and PWC* operators to attend boating education and safety programs.
10. The Coast Guard should coordinate its vessel documentation program with the State of California to ensure that funds that would otherwise support boating programs are not diverted through the federal vessel documentation program.

EXHIBITS

EXHIBIT A: LEGISLATION AFFECTING MARINE PATROL IN THE DELTA

The following identifies and comments on legislation that was either passed recently or was introduced to the Legislature during the 1993-1994 session but failed passage.

A. AB 1856, Assemblywoman Speier: Vessels: Rotation Devices.

As of January 1, 1994, children under the age of seven must wear life jackets while on board any moving vessel.

Comment: Many law enforcement officials report that this law is frequently violated and that violation poses a serious problem as regards to childrens' safety on the water.

B. AB 3536, Assemblyman Sher: Boating Safety.

This bill failed passage in the 1994 session of the Legislature. This bill would have prohibited anyone 17 years of age or younger from operating a boat over eight feet long (unless it is a motorboat under 8 feet) without completing a course on safe boating operations. Proof of completion of the course must be on board while operating the vessel. The bill allows persons 17 or younger who have not completed the course and do not have proof of such to operate a vessel if accompanied with someone who is 18 or older who has completed a boating safety course, or if the person be accompanied by her or his parents.

C. AB 3379, Assemblyman Rainey: Personal Watercraft; Certificate of Renewal Fees.

This bill failed passage in the 1994 session of the Legislature. The bill would have increased annual vessel registration fees from \$5 to \$15 for vessels registered in the five Delta Counties, provided that the board of supervisors in each county passes a resolution requesting the fee increase. The bill would also authorize a loan from the Harbors and Watercraft Revolving Fund to DMV for start-up costs for fee collection. The first \$73,000 collected would be transferred back to the Fund to repay the loan. The remaining revenue would be directed to the sheriffs department of that county for boating safety and enhancement programs within the sheriffs jurisdiction, provided that the board of supervisors of the county has budgeted a specified threshold amount for the sheriffs marine patrol services. Any unclaimed fees would be reallocated to other eligible counties.

Comment AB 3379 passed in the Assembly but failed to pass out of the Senate Appropriations Committee. The boating community opposed the bill stating adequate funds are directed to the State through other taxes, however, the funds are directed to other state programs.

D. AB 3361, Assemblywoman Alien: Vessel pumpout facilities; Coastal Water

Community Facilities

This bill was signed by the Governor on September 30, 1994. This bill authorizes the Department of Boating and Waterways to grant funds to any public agency for the construction or procurement of vessel or dump stations and ancillary items.

Comment: The program is underway to develop an inventory and develop an education program and grant program.

ARRESTS FOR BUI BY COUNTY 1992

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|--------------------------|----|--|
| SAN JOAQUIN COUNTY | 32 | |
| SACRAMENTO COUNTY | 02 | |
| SOLANO COUNTY | 01 | |
| SANTA CLARA COUNTY | 03 | |
| STANISLAUS COUNTY | 01 | |
| ALAMEDA COUNTY | 06 | |
| CONTRA COSTA COUNTY | 08 | |
| ELDORADO COUNTY | 01 | |
| NAPA COUNTY | 01 | |
| SAN MATEO COUNTY | 03 | |
| YUBA COUNTY | 01 | |
| TOTAL BUI ARRESTS | 32 | |
| TOTAL SAN JOAQUIN COUNTY | 05 | |
| TOTAL OUT OF COUNTY | 27 | |
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San Joaquin County Sheriff's Office